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FCC 197 100M

October 22, 1997

Honorable Senator Bob Graham  
Honorable Senator Connie Mack  
Honorable Congressman Joe Scarborough

RE: Proposed FCC Rule (MM Docket #97-182 Preemption of State  
and Local Zoning)

Dear Senator Graham, Senator Mack and/or Congressman Scarborough:

I enclose a copy of a letter from the Experimental Aircraft Association at Oshkosh, WI which was forwarded to the President of Chapter 108 EAA located in Okaloosa County, Florida. Our Chapter is comprised of approximately 80 aviation enthusiasts, many of whom own airplanes.

As you will note from the letter, the FCC is proposing to preempt State and local government land use regulation as respects the construction of broadcast station towers.

Having recently been involved in a lengthy battle which culminated in a refusal by local authorities to permit construction of a 1100 foot tower near a major fly-way in our County, our Chapter is most definitely opposed to FCC Preemption. I can't imagine a more egregious impingement upon State sovereignty as respects control or utilization of real property within a State's boundaries.

In behalf of our local Chapter, I sincerely urge you to oppose the referenced FCC proposal.

Sincerely,



LAWRENCE P. BUSH

LPB;mjr

cc: All Okaloosa County Commissioners  
Jerry Melvin  
Durell Peden  
Office of Secretary FCC

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10/21/97



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P.O. BOX 3086  
OSHKOSH, WI 54903-3086  
  
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FCC MAIL ROOM

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September 29, 1997

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Dear Chapter President:

I am writing to ask for help in preventing a proposed Federal Communications Commission (FCC) rule that will not only be a danger to aviation safety, but also allow the federal government to take away the zoning authority of your town, city, county and state.

I ask you and the members of your Chapter to contact your local zoning authorities, mayors, city managers, governors, state and federal congressmen and inform them about this FCC proposal. What is needed are letters in opposition to the proposal from these leaders. The affect of letters from local, state and federal leaders will be much greater than letters from individual citizens.

The FCC proposal is MM Docket No. 97-182 Preemption of State and Local Zoning and Land Use Restrictions on the Citing, Placement and Construction of Broadcast Station Transmission Facilities. The FCC is considering whether, and in what circumstances, to preempt certain state and local zoning and land use ordinances that present an obstacle to the rapid implementation of digital television service. The proposal states:

- “(1) No state or local government or instrumentality thereof may deny a request to place, construct, or modify a broadcast antenna facility on the basis of:
- (i) the environmental or health effects of radio frequency emissions to the extent that such facility has been determined by the Commission to comply with the Commission’s regulations and/or policies concerning such emissions;
  - (ii) interference effects on existing or potential telecommunications providers, end users, broadcasters, or third parties to the extent that such facility has been determined by the Commission to comply with the Commission’s regulations and/or policies concerning interference;
  - (iii) Lighting, painting, and marking requirements, to the extent that the facility has been determined by the FAA or the Commission to comply with applicable FAA and Commission regulations and/or policies regarding tower lighting, painting and marking;
- (2) Any state or local land-use, building, or similar law, rule or regulation that impairs the ability of federally authorized radio or television operators to place, construct, or modify

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broadcast transmission facilities, is preempted unless the promulgating authority can demonstrate that such regulation is reasonable ...."

FCC MAIL ROOM

The FCC proposal would also require that if the local authority wants to object to the construction, it must do so within 21 to 45 days of application, depending on the situation, or the construction can proceed. If the local authority does not know about the proposed construction or takes time to respond, it may not be able to prevent its construction.

It can certainly be taken for granted that the broadcasters will take advantage of this proposal to proceed with a tower construction campaign the likes of which has never been seen before. Local zoning laws will provide no protection from the construction of towers, hundreds and even thousands of feet in height in your neighborhood and or near your airport.

An example, of how this proposal could affect you is a tower that EAA and local governments have spent over 10 years working to prevent its construction. The tower is a 1,700 AGL tower south of Oshkosh, in a corridor in which all arriving VFR convention traffic would be required to pass by on the way to and from the EAA Convention. This tower would be built over the objections of EAA and local and state officials, creating a significant hazard to flight safety.

However, this is not just an aviation issue. This proposed rule will allow towers to be built next to existing residential subdivisions over the objection of the community. Let your local leaders know that a tower could be built in **their** back yard.

Comments on this proposal may be filed on or before October 30, 1997. Comments should be sent to Office of Secretary, Federal Communications Commission, Washington, D.C. 20554. For additional information on this proposal, you may contact Keith Larson, Assistant Bureau Chief for Engineering or Susanna Zwerling, Policy and Rules Division, Mass Media Bureau at (202) 418-2140.

Help EAA prevent this rule change. Contact your local officials, educate them on the proposal, ensure that they write in objection to losing their zoning authority.

Sincerely,

EXPERIMENTAL AIRCRAFT ASSOCIATION



Earl Lawrence

Director, Government Programs